

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSE BUSANET,	:	Honorable Michael M. Baylson
	:	
Plaintiff	:	
	:	
v.	:	No. 21-4286
	:	
JOHN WETZEL, et al.,	:	
	:	
Defendants	:	Filed Via Electronic Case Filing

DEFENDANTS' MOTION TO TRANSFER PURSUANT  
TO LOCAL RULE 40.1(c)(2) AND 28 U.S.C. § 1404(a)

Defendants, by and through the undersigned counsel, Joseph Fulginiti, Assistant Counsel for the Pennsylvania Department of Corrections, hereby move this Honorable Court to transfer this action currently pending in the Eastern District of Pennsylvania to the Middle District of Pennsylvania pursuant to Local Rule 40.1(c)(2) and 28 U.S.C. § 1404(a) for the reasons stated herein, and aver as follows:

1. Plaintiff is Jose Busanet, a death-sentenced prisoner presently incarcerated by the Commonwealth of Pennsylvania, Department of Corrections (“the Department”), at the State Correctional Institution at Phoenix (“SCI-Phoenix”).
2. Plaintiff, like dozens of other death-sentenced prisoners confined at SCI-Phoenix, recently filed a lawsuit alleging violations of his rights under the Eighth and Fourteenth Amendments, as well as the Americans with

Disabilities Act (“ADA”) associated with the conditions of his confinement in the Capital Case Unit (“CCU”). These cases have been filed in all federal districts of Pennsylvania.<sup>1</sup>

3. As Defendants the Plaintiff has named Former-Secretary of Corrections John Wetzel and the Pennsylvania Department of Corrections; the other identical actions filed by capital prisoners have named the same Defendants.
4. As an individual currently or previously sentenced to death in the Commonwealth of Pennsylvania, Plaintiff is part of a class certified in the Middle District of Pennsylvania in Reid, et al., v. Wetzel, et al., 18-CV-0176 (MDPA). See Reid, Docs. 27-29.
5. Transfer and consolidation of this matter in the Middle District of Pennsylvania is appropriate for dual reasons.
6. First, the principal place of business of both the Pennsylvania Department of Corrections and Former-Secretary Wetzel is the Central Office of the

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<sup>1</sup> This case is part of a group of identical lawsuits filed by capital prisoners in all federal districts of the Third Circuit. The following cases comprise this group: Boxley v. Wetzel, et al., 21-4468 (EDPA); Busanet v. Wetzel, et al., 21-4286 (EDPA); Cash v. Wetzel, et al., 21-4748 (EDPA); Clemons v. Wetzel, et al., 21-5232 (EDPA); Conforti v. Wetzel, et al., 21-5293 (EDPA); Hackett v. Wetzel, et al., 21-5140 (EDPA); Hannibal v. Wetzel, et al., 21-4732 (EDPA); Hicks v. Wetzel, et al., 21-4719 (EDPA); Hitcho v. Wetzel, et al., 21-5173 (EDPA); Johnson v. Wetzel, et al., 21-4857 (EDPA); Lopez, et al., v. Wetzel, et al., 21-1819 (MDPA); Marinelli, et al., v. Wetzel, et al., 21-5215 (EDPA); Morales v. Wetzel, et al., 21-4765 (EDPA); Murphy v. Wetzel, et al., 21-4436 (EDPA); Natividad v. Wetzel, et al., 21-4754 (EDPA); Padilla v. Wetzel, et al., 21-5083 (EDPA); Perez v. Wetzel, et al., 21-4796 (EDPA); Reid, et al., v. Wetzel, et al., 21-5108 (EDPA); Rivera v. Wetzel, et al., 21-4524 (EDPA); Robinson v. Wetzel, et al., 21-4844 (EDPA); Robinson v. Wetzel, et al., 21-4715 (EDPA); Spotz v. Wetzel, et al., 21-1799 (MDPA); Staton v. Wetzel, et al., 21-5016 (EDPA); Stollar v. Wetzel, et al., 21-1515 (WDPA); Thomas v. Wetzel, et al., 21-4469 (EDPA).

Department of Corrections at 1920 Technology Parkway, Mechanicsburg, PA 17050, and within the Middle District.

7. All Department policies, including those policies that impact the conditions of confinement in the CCU, are finalized and implemented there before being promulgated to local institutions.
8. Second, the class of death-sentenced prisoners of which Plaintiff is a part remains active, as a settlement agreement was reached in that matter and is in the process of being implemented and monitored. See Reid, 18-CV-0176 (MDPA).
9. That suit similarly addresses the conditions of confinement in the CCU, as well as the alleged lack of opportunities for release to the general population.
10. 28 U.S.C. § 1404(a) provides that:

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.
11. The interest of justice would be served by transferring this case to the Middle District so that these numerous cases can be consolidated due to their identical nature and litigated in conjunction with an active class action of which the plaintiffs are already part.
12. Consolidating and litigating these identical cases in the same forum, where the most-appropriate jurisdiction lies and an active class-action already

exists, is the most effective and efficient way to resolve these dozens of cases for both the parties and the Court.

13. This motion is not made for a dilatory purpose or any other improper reason.
14. It is averred that no prejudice will befall any party if this motion is granted and the matter is transferred to the Middle District for consolidation and continued litigation.

WHEREFORE, the Defendants respectfully request that the Court grant their motion to transfer venue to the Middle District.

Respectfully submitted,  
Office of General Counsel



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Date: December 15, 2021

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing filing was served upon the individual indicated below by First Class Mail, addressed as follows:

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Date: December 15, 2021